

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

John Shures, by and through his guardian  
and wife, Tracey Shures,

Plaintiff,

v.

Case No. 04-72396

State Farm Mutual Automobile Insurance  
Company, an Illinois insurance company,

Honorable Sean F. Cox

Defendant.

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**ORDER DENYING**  
**“PLAINTIFF’S EMERGENCY MOTION FOR AN INJUNCTION OR STAY PENDING**  
**THE APPEAL IN CASE NO. 2:04-CV-72333, SIXTH CIRCUIT CASE NO. 07-1864 AND**  
**MOTION TO REASSIGN THE CASE TO JUDGE TARNOW”**

Defendant removed this action to this Court on June 29, 2004, and it was originally assigned to the Honorable Bernard Friedman.

In an Opinion & Order dated August 22, 2005, Judge Friedman denied Plaintiff’s request to have this case reassigned to Judge Tarnow as a companion case. (Docket Entry No. 51). In that Opinion & Order, Judge Friedman specifically noted that he had discussed the companion case issue with Judge Tarnow, that “Judge Tarnow does not consent to the reassignment plaintiff proposes,” and that without Judge Tarnow’s consent, reassignment is not possible. *Nat’l Solid Wastes Mgmt. Ass’n v. Granholm*, 315 F.Supp.2d 867, 869 (E.D. Mich 2004); *see also* L.R. 83.11 (stating that a case can be reassigned as a companion case “**only** with the consent of the Judge to whom the case was originally assigned **and with the consent of the Judge to whom it is to be reassigned.**” (emphasis added)).

In the August 22, 2005 Opinion & Order, Judge Friedman also noted that Plaintiff had

filed a motion seeking to stay proceedings based on the fact that Defendant had recently filed a counterclaim in a related case, *Rivet v. State Farm Mutual Auto. Ins. Co.*, 04-72333, which was also pending before Judge Friedman. (8/22/05 Opinion & Order at 1-2). In his August 22, 2005 Opinion & Order, Judge Friedman stayed this action until the counterclaim in *Rivet* was resolved. (*Id.*).

In a Show Cause Order dated January 11, 2006, Judge Friedman noted that since imposing that stay, the Court had made several rulings in *Rivet*, which significantly narrowed the scope of the counterclaims and that the Court was therefore no longer persuaded that the proceedings in the instant case should be stayed. He therefore ordered that the parties show cause within ten days of the date of the order why the Court should not lift the stay and permit this case to proceed. (Docket Entry No. 52). The docket reflects that no response to the Show Cause Order was filed and the stay was lifted.

Later, in an Order dated August 27, 2007, Judge Friedman set a trial date of June 24, 2008. (Docket Entry No. 64). That trial date was adjourned, however, in an order dated May 15, 2008, due to conflicting trial dates of counsel. (Docket Entry No. 91).

In an order dated May 19, 2008, for purposes of docket efficiency, this action was reassigned to this Court for trial. (Docket Entry No. 92). This Court held a status conference with the parties on June 16, 2008, and set a trial date of August 12, 2008.

On July 10, 2008, Plaintiff filed the instant motion asking this Court to issue a stay in this action and/or reassign this case to Judge Tarnow as a companion case to Case No. 04-72255.

Having considered Plaintiff's motion, and Judge Friedman's prior orders regarding these same issues, **IT IS ORDERED** that Plaintiff's motion is **DENIED**. **IT IS FURTHER ORDERED** that trial in this action shall proceed as scheduled.

**IT IS SO ORDERED.**

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: July 17, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on July 17, 2008, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager

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**PROOF OF SERVICE**

The undersigned certifies that the foregoing opinion and order was served upon counsel of record via the Court's ECF System and/or U. S. Mail on July 17, 2008.

s/Jennifer Hernandez  
Case Manager to  
District Judge Sean F. Cox